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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Yukinori MASUDA et al.

Group Art Unit: 1625

Application No.: 10/549,510

Examiner: C. AULAKH

Filed: September 20, 2005

Docket No.: 125413

For: T-TYPE CALCIUM CHANNEL BLOCKER

**REQUEST FOR RECONSIDERATION OF PATENT
TERM ADJUSTMENT UNDER 37 CFR §1.705(d)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On July 21, 2009, U.S. Patent Application No. 10/549,510 issued as U.S. Patent No. 7,563,782. The Issue Notification indicated that the Patent Term Adjustment (PTA) for the patent was 262 days. This PTA differed from the PTA indicated in the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) mailed with the Notice of Allowance on March 23, 2009, which listed 344 days as the PTA. The patentee respectfully submits that this change was in error and requests that the PTA be adjusted back to the original 344 days.

This Request is being filed within two months of July 21, 2009 (the issue date of U.S. Patent No. 7,563,782) and complies with the requirements of 37 CFR §1.705(d).

I. Fee

Submitted herewith is Check No. 222043 in the amount of \$200.00 for the fee under 37 C.F.R. §1.18(e) as required by 37 CFR §§1.705(d) and (b)(1).

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II. Statement of Facts

As required by 37 CFR §§1.705(d) and (b)(2), the following statement of facts is provided:

1. The correct PTA for this patent is believed to be 344 days. The overall basis for the adjustment is §1.702(a), failure to take certain actions within specified time frames.
2. The application that issued as the patent fulfilled the requirements of 35 U.S.C. §371 on September 20, 2005.
3. As of January 29, 2008, the Patent Office incurred a **435 day** delay in issuance of a first Office Action under §1.703(a)(1), which was the number of days delayed beginning on the day after November 20, 2006 (the fourteen month date).
4. There are no relevant dates under §§1.703(a)(2)-(a)(6) and (b)-(e).
5. On July 29, 2008, Applicants incurred a **91 day** reduction of period of adjustment of patent term under §1.704 by obtaining a three-month extension of time to file a Response to the January 29, 2008 Office Action.
6. The PTA should be 344 days or the difference between the Patent Office delay and the Applicants' delay ($435 - 91 = 344$).
7. U.S. Patent No. 7,563,782 is not subject to a terminal disclaimer
8. The Patent Office erroneously added 82 days of Applicants' alleged delay on May 1, 2009 after the following events occurred:
 - a) On March 23, 2009, the Patent Office mailed a Notice of Allowance and Issue Fee(s) listing a PTA of 344 days.
 - b) On April 27, 2009, the Patent Office (Examiner Aulakh) contacted Applicants' representative requesting a clean and marked-up copy of the substitute specification that was previously submitted with the September

20, 2005 Preliminary Amendment, because the Patent Office could not locate these documents.

- c) On May 1, 2009, Applicants submitted a letter to the Patent Office forwarding a courtesy copy (clean and marked-up copies) of the substitute specification along with a copy of the date-stamped receipt acknowledging receipt of these documents on September 20, 2005.
- d) The Patent Office listed the re-submission filed on May 1, 2009 in the Image File Wrapper as a "Miscellaneous Incoming Letter," which appears to have resulted in an automatic addition of 82 days to the alleged Applicant delay.
- e) The May 1, 2009, re-submission was specifically at the Patent Office's request due to the Patent Office's loss of Applicants' earlier submission, and was not due to any failure of Applicants to engage in reasonable efforts to conclude prosecution of the application.
- f) On July 21, 2009, U.S. Patent No. 7,563,782 was issued with a new PTA of 262 days ($435 - (91+82) = 262$).

III. Relief Requested

Because the 82 days should not have been added to the alleged Applicants' delay, the proper PTA is believed to be 344 days. Accordingly, reconsideration and correction of the PTA are respectfully requested.

Respectfully submitted,



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JAO:RRB/rrb

Date: September 18, 2009

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